

## Department of the Army, DoD

## § 516.75

DAJA-LE to DA General Counsel. (See figure I-1, appendix G, to this part).

(3) During the investigation but prior to DA General Counsel approval of the request for counsel, an “accused” or “suspected” individual will be provided the assistance of counsel for consultation in the same manner as any other OSC requested witness. “Accused” or “suspected” individuals who do not request counsel for representation will be provided counsel for consultation in the same manner as any other OSC requested witness.

(4) If the DA General Counsel approves the request for counsel, the Chief, DAJA-LE, will appoint a DA attorney to represent the individual. This appointment may be made telephonically but will be confirmed in writing. The Chief, DAJA-LE, will make appropriate coordination with MACOM SJAs and command counsel to confirm availability of the attorney.

(5) An attorney appointed by DA may represent a civilian employee in any proceeding initiated by OSC before the MSPB. However, counsel provided by DA may not represent the employee in any proceeding initiated by DA, in any appeal from a final decision by the MSPB, or in any collateral proceeding before any forum other than the MSPB.

(6) OSC may not bring a disciplinary action before the MSPB against a military member. Accordingly, DA counsel will not be required to represent the military member in any MSPB disciplinary proceeding. However, counsel may represent the member during the OSC investigation with the understanding that the evidence obtained by OSC may be referred to the member's command for possible disciplinary action under the UCMJ or appropriate regulations. If DA initiates action against the military member for misconduct disclosed in the OSC investigation, the member will obtain counsel as provided under the UCMJ or relevant regulations.

(c) Records.

(1) OSC requests for records must be in writing. The Labor Counselor will assist OSC representatives in identifying the custodian of specific records sought during the inquiry.

(2) Generally, requested records should be furnished to OSC representa-

tives if such records would be released under AR 25-55 or AR 340-21 to other government agencies in the normal course of official business. Records constituting attorney work product should not be released without approval of the Chief, DAJA-LE. IG records will not be released without the approval of the Inspector General. (AR 20-1). The Labor Counselor should seek guidance from the Chief, DAJA-LE, if there is any doubt concerning the release of records.

(3) If, after completion of the OSC investigation, the OSC files a complaint against DA or a DA employee, release of records and other information will be accomplished pursuant to MSPB rules of discovery (5 CFR part 1201, subpart B).

(d) Funding. The command, activity, or installation within which the allegations of misconduct arose will provide funding for travel, per diem and other necessary expenses related to the OSC investigation. These expenses may include appropriate funding for witnesses, counsel for consultation and DA General Counsel approved counsel for representation.

### § 516.73 Assistance from HQDA.

Labor Counselors may seek guidance on questions arising from implementation of this chapter by calling the Chief, DAJA-LE, DSN 225-9476/9481 or Commercial (703) 695-9476/9481.

## Subpart J—Soldiers Summoned to Serve on State and Local Juries

### § 516.74 General.

(a) This subpart implements 10 U.S.C. § 982 and DOD Directive 5525.8. It establishes Army policy concerning soldiers on active duty who are summoned to serve on state and local juries.

(b) This subpart does not apply to Army National Guard soldiers in an annual training or full-time AGR (Active Guard Reserve) status under Title 32, U.S. Code. Soldiers in a Title 32 status must refer to their respective state law for relief from state or local jury duty.

### § 516.75 Policy.

(a) Active duty soldiers should fulfill their civic responsibility by serving on